

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re

DAVID H. McGRAW

On Habeas Corpus.

F054655

(Related Kern County Superior Ct.
Case No. HC10356A)

**MODIFICATION OF OPINION
ON DENIAL OF REHEARING
[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion herein filed on February 19, 2009, be modified as follows:

1. On page 10, strike the sentence that follows “(Cf. *In re Bernadette C.* (1982) 127 Cal.App.3d 618, 625.)” and insert the following sentence in its place: “Since the “paramount consideration” at a Board hearing, as clarified by *Lawrence* and *Shaputis*, is “whether the inmate currently poses a threat to public safety,” and since “the inmate’s due process interest in parole mandates a meaningful review of a denial-of-parole decision” (*Shaputis, supra*, 44 Cal.4th at p. 1254, citing *Lawrence, supra*, 44 Cal.4th at p. 1191), and since on the record before us we cannot conclude the error was harmless, we will reverse the Board’s decision and will remand the matter to the Board for reconsideration in light of *Lawrence* and *Shaputis* within 60 days of the finality of this decision.”

This modification does not effect a change in the judgment.

The petition for rehearing is denied.

Gomes, J.

WE CONCUR:

Cornell, Acting P. J.

Hill, J.